IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE EIGHTEENTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE GODA RAGHURAM

WRIT PETITION NO : 2656 of 1996

Between:

M. Siva Kumar S/o Late M.Sivaiah,

Ag: 27 years,R/o Cuddapah.

..... PETITIONER

AND

1. The Andhra Pradesh Industrial Infrastructure

Corporation Ltd., Parishrama Bhawan, 6th Floor,

Fateh Maidan Road, Hyderabad.

2. The Andhra Pradesh Industrial Infrastructure

Corporation Ltd., rep. by its Zonal Manager,

Tirupathi.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of Mandamus directing the respondents to provide employment to the petitioner as Attender/Watchman on compassionate grounds on regular pay scale.

For the Petitioner: Mr. V.Srinivas, Advocate

For the Respondents: Mr. P.Rama Bhopal Reddy, Standing Counsel

The Court Made the Following :

::ORDER::

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The petitioner in substance seeks appointment on compassionate grounds either as an Attender or a Watchman in the 1st respondent-Corporation.

Petitioner's father worked on consolidated pay on a casual basis as Head Mazdoor in the 2nd respondent during 1977-1983. On 1.6.83 his services were terminated on the basis of a complaint. After termination he died on 24.1.1985. After his death, his widow, the petitioner's mother, instituted ID No. 144/90 before the Industrial Tribunal-cum-Labour Court, Anantapur, u/Sec.2.A(2) of the Industrial Disputes Act, 1947, assailing the termination of her husband from service. By the award dated 11.12.1992 the Tribunal concluded that the termination was stigmatic, was not preceded by any notice or opportunity or regular enquiry and was therefore invalid. Accordingly the Tribunal declared the termination illegal and that the petitioner's father – the late workman should be deemed to have continued in service till 24.1.85 – the date of his death and that he is entitled to emoluments @ Rs.250/- pm, for the said period. The claim in the ID for the other reliefs such as gratuity, family fund, funeral expenses and regular scale of pay etc., for the period of termination, was denied by the Tribunal on the ground that since the late workman was a temporary employee on a consolidated pay, he was not entitled to those benefits.

After the award of the Tribunal the petitioner's mother made a representation dated 10.3.1993 claiming compassionate appointment for the petitioner, her son, on the ground of his being an unemployed dependent of the late workman. This claim having been rejected by the respondent-Corporation, the petitioner is before this court for appropriate relief.

In the counter affidavit, *inter alia*, the respondent-Corporation contends that there is a scheme in the respondent-Corporation that enables grant of employment to one of the unemployed dependants of a deceased employee in a suitable post if the candidate satisfies the qualifications for the post as prescribed. However, under the APIIC Staff Regulations an 'employee' is defined as a person employed by the Corporation, excluding persons employed on daily wages or on casual or part time basis. As Mr. Sivaiah, the late employee and father of the petitioner was employed in work charged establishment on casual basis on consolidated pay, he does not satisfy the requirement of being considered as an employee of the Corporation and therefore the petitioner cannot claim compassionate appointment on dependency basis, is the meat of the respondents' defence to the claim of the petitioner.

The petitioner does not contest this position of the regulations governing service in the respondent-establishment or the scheme of compassionate appointment.

In the above circumstances the claims of the petitioner are bereft of any legal basis. No relief could be granted. The writ petition is accordingly dismissed. No costs.

Date: 18.11.2004 ----------

Pvsn Justice G.Raghuram

To

1. The Andhra Pradesh Industrial Infrastructure

Corporation Ltd., Parishrama Bhawan, 6th Floor,

Fateh Maidan Road, Hyderabad.

2. The Zonal Manager,

Andhra Pradesh Industrial Infrastructure Corporation Ltd.,

Tirupathi.

3. 2 CD copies.